

# Kelley Deposition Disclosure By SWP Raises Legal Dispute

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A legal dispute has arisen over the distribution to news organizations by the Socialist Workers party of an unsigned deposition given earlier this month by FBI Director Clarence M. Kelley concerning the bureau's recently concluded 38-year investigation of the party.

The 128-page deposition, taken on Nov. 3 as part of the SWP's \$40 million civil suit against the FBI and other federal agencies, was given to reporters from seven newspapers, including The Washington Star, two wire services and NBC this week by the party's spokeswoman. It was to be released for publication today.

However, late Wednesday U.S. District Judge Thomas P. Griesa, who is hearing the civil case in New York, orally ordered one of the SWP's attorneys, Herbert Jordan, to recall all of the distributed transcripts until Kelley could read the document thoroughly, make necessary corrections and sign it.

GRIESA ISSUED the order after he received a complaint about distribution of the transcripts from Asst. U.S. Atty. William S. Brandt, who is representing the government in the case.

Jordan said in a telephone interview yesterday he had given permission to the political rights defense fund, the financial and publicity arm of SWP, to release copies of the deposition to reporters because he felt Kelley had been given reasonable time to read and sign the deposition.

In June, Brandt similarly complained to Griesa when copies of a deposition taken from a former FBI official were made public without the witness having signed it, Jordan said. The lawyer added, "We reluctantly agreed" that in the future "we would wait a reasonable amount of time" before making public such documents.

However, he noted that Kelley has had two weeks to read and sign the deposition and that, in the previous case, Griesa had noted that such documents should be read and signed by witnesses "right away."

JORDAN ACKNOWLEDGED that, based on Griesa's order, he had telephoned all of the news organizations involved yesterday and requested that copies of the deposition be returned.

Griesa issued a brief statement yesterday afternoon in response to reporters' inquiries saying that he had directed Jordan to "request" news organizations to return the transcripts, but the judge emphasized that he had "issued no orders" directed at the news organizations concerning the return of the transcripts or whether contents of the deposition could be published.

He said he would "leave it up to the newspapers to determine what they should do under the circumstances."

Brandt declined to comment yesterday on the controversy, but said he expected that Kelley would sign the deposition "this week or early next week."

THE DISPUTE over the distribution of the deposition appears not to have been started because of any bombshell disclosures by Kelley, but rather as part of the constant wrangling between the government and the SWP in the lengthy pretrial stage of the civil suit.

The Justice Department disclosed Sept. 14 that the investigation of the small left-wing political group had finally ended. But that decision has had no effect on the civil suit which charges the FBI with illegal harassment, infiltration by informants, intimidation and break-ins and burglaries conducted by FBI agents.

In his deposition, Kelley reiterated that the investigation of the SWP had ended. At the same time, he stated he had no personal knowledge of FBI break-ins or electronic surveillance allegedly used by agents during the course of the probe.

Kelley also said that no decision has been made as to the disposition of the bureau's extensive investigative file on the party. He also acknowledged that he has refrained from learning details of a Justice Department probe into illegal FBI break-ins and burglaries in order "to maintain the integrity of that investigation."

IN RELEASING the deposition, the SWP also made public a copy of Atty. Gen. Edward H. Levi's memorandum to Kelley, dated Sept. 9, in which Levi advised that the FBI investigation should be terminated.

While a portion of the memorandum was deleted before being turned over to the SWP, one remaining paragraph noted that "information disseminated by the CIA to the FBI indicates a significant link between the SWP and a foreign-based political group." Levi said that, "This type of information should be carefully watched to see whether in the future a reconsideration of this case is required."